

SENATE/HOUSE FILE _____

BY (RECOMMENDED BY FREEDOM OF
INFORMATION, OPEN MEETINGS,
AND PUBLIC RECORDS INTERIM
STUDY COMMITTEE)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to open records and public meetings and providing
2 an effective date.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 8E.202, subsection 1, unnumbered
2 paragraph 1, Code 2007, is amended to read as follows:

3 The department and each agency shall provide for the widest
4 possible dissemination of information between agencies and the
5 public relating to the enterprise strategic plan and agency
6 strategic plans, including but not limited to internet access.
7 This section does not require the department or an agency to
8 release information which is classified as a confidential
9 record under this Code~~7--including-but-not-limited-to-section~~
10 ~~22-7~~.

11 Sec. 2. Section 8E.202, subsection 3, Code 2007, is
12 amended to read as follows:

13 3. A record which is confidential under this Code~~7~~
14 ~~including-but-not-limited-to-section-22-7~~, shall not be
15 released to the public under this section.

16 Sec. 3. Section 8A.341, subsection 2, Code 2007, is
17 amended to read as follows:

18 2. If money is appropriated for this purpose, by November
19 1 of each year supply a report which contains the name,
20 gender, county, or city of residence when possible, official
21 title, salary received during the previous fiscal year, base
22 salary as computed on July 1 of the current fiscal year, and
23 traveling and subsistence expense of the personnel of each of
24 the departments, boards, and commissions of the state
25 government except personnel who receive an annual salary of
26 less than one thousand dollars. The number of the personnel
27 and the total amount received by them shall be shown for each
28 department in the report. All employees who have drawn
29 salaries, fees, or expense allowances from more than one
30 department or subdivision shall be listed separately under the
31 proper departmental heading. On the request of the director,
32 the head of each department, board, or commission shall
33 furnish the data covering that agency. The report shall be
34 distributed upon request without charge in an electronic
35 medium to each caucus of the general assembly, the legislative

1 services agency, the chief clerk of the house of
2 representatives, and the secretary of the senate. Copies of
3 the report shall be made available to other persons in an
4 electronic medium upon payment of a fee, which shall not
5 exceed the cost of providing the copy of the report. Sections
6 22.2 through ~~22.6~~ 22.5 apply to the report. All funds from
7 the sale of the report shall be deposited in the printing
8 revolving fund established in section 8A.345.

9 Sec. 4. Section 10B.5, subsection 2, Code 2007, is amended
10 to read as follows:

11 2. Information provided in reports required in this
12 chapter is ~~a-confidential~~ an optional public record as
13 provided in section 22.7. The attorney general may have
14 access to the reports, and may use information in the reports
15 in any action to enforce state law, including but not limited
16 to chapters 9H, 9I, and 10C. The reports shall be made
17 available to members of the general assembly and appropriate
18 committees of the general assembly in order to determine the
19 extent that agricultural land is held in this state by
20 corporations and other business and foreign entities and the
21 effect of such land ownership upon the economy of this state.
22 The secretary of state shall assist any committee of the
23 general assembly studying these issues.

24 Sec. 5. Section 21.2, subsection 2, Code 2007, is amended
25 to read as follows:

26 2. a. "Meeting" means a gathering in person or by
27 electronic means, formal or informal, of a majority of the
28 members of a governmental body where there is deliberation or
29 action upon any matter within the scope of the governmental
30 body's policy-making duties. A "meeting" includes the
31 calculated use of a series of communications, each between
32 less than a majority of the members of a governmental body or
33 their personal intermediaries, that is intended to reach and
34 does in fact reach a majority of the members of the
35 governmental body and that is intended to discuss and develop

1 a collective final decision of a majority outside of a meeting
2 with respect to specific action to be taken by the majority at
3 a meeting.

4 b. Meetings-shall A "meeting" does not include any of the
5 following:

6 (1) a A gathering of members of a governmental body for
7 purely ministerial or social purposes when there is no
8 discussion of policy or no intent to avoid the purposes of
9 this chapter.

10 (2) Written electronic communications by one or more
11 members of a governmental body or by its chief executive
12 officer that are ordinarily preserved and are accessible and
13 that are sent to a majority of the members of the governmental
14 body, or a series of such written electronic communications
15 each sent only to a minority of the members of the
16 governmental body but that in the aggregate are sent to a
17 majority of its members that do both of the following:

18 (a) Concern a particular matter within the scope of the
19 governmental body's policy-making duties.

20 (b) Would otherwise constitute a meeting.

21 However, this exclusion only applies if the written
22 electronic communications, to the extent such communications
23 are not exempt from disclosure pursuant to section 22.7 or
24 another statute, are either posted on the governmental body's
25 internet site or public bulletin board or copies are made
26 available for public inspection at the governmental body's
27 next regular meeting.

28 Sec. 6. Section 21.4, subsections 1 and 3, Code 2007, are
29 amended to read as follows:

30 1. A Except as provided in subsection 3, a governmental
31 body, except township trustees, shall give notice of the time,
32 date, and place of each meeting including a reconvened meeting
33 of the governmental body, and its the tentative agenda of the
34 meeting, in a manner reasonably calculated to apprise the
35 public of that information. Reasonable notice shall include

1 advising the news media who have filed a request for notice
2 with the governmental body and posting the notice on a
3 bulletin board or other prominent place which is easily
4 accessible to the public and clearly designated for that
5 purpose at the principal office of the body holding the
6 meeting, or if no such office exists, at the building in which
7 the meeting is to be held.

8 3. Subsection 1 does not apply to any of the following:

9 a. A meeting reconvened within four hours of the start of
10 its recess, where an announcement of the time, date, and place
11 of the reconvened meeting is made at the original meeting in
12 open session and recorded in the minutes of the meeting and
13 there is no change in the agenda.

14 b. A meeting held by a formally constituted subunit of a
15 parent governmental body may-conduct-a-meeting-without-notice
16 as-required-by-this-section during a lawful meeting of the
17 parent governmental body, or during a recess in that meeting
18 of up to four hours, or a meeting of that subunit immediately
19 following that the meeting of the parent governmental body, if
20 the meeting of the that subunit is publicly announced in open
21 session at the parent meeting and the subject of the meeting
22 reasonably coincides with the subjects discussed or acted upon
23 by the parent governmental body.

24 Sec. 7. Section 21.5, subsection 1, paragraph k, Code
25 Supplement 2007, is amended to read as follows:

26 k. To discuss information contained in records in the
27 custody of a governmental body that are ~~confidential~~ optional
28 public records pursuant to section 22.7, subsection 50.

29 Sec. 8. Section 21.5, subsection 4, Code Supplement 2007,
30 is amended to read as follows:

31 4. A governmental body shall keep detailed minutes of all
32 discussion, persons present, and action occurring at a closed
33 session, and shall also tape record all of the closed session.
34 The detailed minutes and tape recording of a closed session
35 shall be sealed and shall not be public records open to public

1 inspection. However, upon order of the court in an action to
2 enforce this chapter, the detailed minutes and tape recording
3 shall be unsealed and examined by the court in camera. The
4 court shall then determine what part, if any, of the minutes
5 should be disclosed to the party seeking enforcement of this
6 chapter for use in that enforcement proceeding. In
7 determining whether any portion of the minutes or recording
8 shall be disclosed to such a party for this purpose, the court
9 shall weigh the prejudicial effects to the public interest of
10 the disclosure of any portion of the minutes or recording in
11 question, against its probative value as evidence in an
12 enforcement proceeding. After such a determination, the court
13 may permit inspection and use of all or portions of the
14 detailed minutes and tape recording by the party seeking
15 enforcement of this chapter. A governmental body shall keep
16 the detailed minutes and tape recording of any closed session
17 for a period of at least one year from the date of that
18 meeting, except as otherwise required by law.

19 Sec. 9. Section 21.6, subsection 3, paragraph a, Code
20 2007, is amended to read as follows:

21 a. Shall assess each member of the governmental body who
22 participated in its violation damages in the amount of not
23 more than two thousand five hundred dollars ~~nor~~ and not less
24 than one ~~hundred~~ thousand dollars. These damages shall be
25 paid by the court imposing it to the state of Iowa, if the
26 body in question is a state governmental body, or to the local
27 government involved if the body in question is a local
28 governmental body. A member of a governmental body found to
29 have violated this chapter shall not be assessed such damages
30 if that member proves that the member did any of the
31 following:

32 (1) Voted against the closed session.

33 (2) Had good reason to believe and in good faith believed
34 facts which, if true, would have indicated compliance with all
35 the requirements of this chapter.

1 (3) Reasonably relied upon a decision of a court or a
2 formal opinion of the Iowa public information board, the
3 attorney general, or the attorney for the governmental body.
4 Sec. 10. Section 22.1, Code 2007, is amended to read as
5 follows:

6 22.1 DEFINITIONS.

7 1. "Confidential record" means a government record
8 designated by statute as unavailable for examination and
9 copying by members of the public.

10 ~~1. 2. The term-"government~~ "Government body" means this
11 state, or any county, city, township, school corporation,
12 political subdivision, tax-supported district, nonprofit
13 corporation other than a fair conducting a fair event as
14 provided in chapter 174, whose facilities or indebtedness are
15 supported in whole or in part with property tax revenue and
16 which is licensed to conduct pari-mutuel wagering pursuant to
17 chapter 99D, or other entity of this state, or any branch,
18 department, board, bureau, commission, council, committee,
19 official, or officer of any of the foregoing or any employee
20 delegated the responsibility for implementing the requirements
21 of this chapter.

22 3. "Government record" means a record owned by, created
23 by, in the possession of, or under the control of, any unit,
24 division, or part of state or local government or the
25 officials or employees of such public bodies in the course of
26 the performance of their respective duties.

27 ~~2. 4. The term-"lawful~~ "Lawful custodian" means the
28 government body currently in physical possession of the ~~public~~
29 government record. The custodian of a ~~public~~ government
30 record in the physical possession of persons outside a
31 government body is the government body owning that government
32 record. The government records relating to the investment of
33 public funds are the property of the public body responsible
34 for the public funds. Each government body shall delegate to
35 particular officials or employees of that government body the

1 responsibility for implementing the requirements of this
2 chapter and shall publicly announce the particular officials
3 or employees to whom responsibility for implementing the
4 requirements of this chapter has been delegated. "Lawful
5 custodian" does not mean an automated data processing unit of
6 a public body if the data processing unit holds the government
7 records solely as the agent of another public body, nor does
8 it mean a unit which holds the government records of other
9 public bodies solely for storage.

10 ~~3.--As-used-in-this-chapter,"public-records"-includes-all~~
11 ~~records,-documents,-tape,-or-other-information,-stored-or~~
12 ~~preserved-in-any-medium,-of-or-belonging-to-this-state-or-any~~
13 ~~county,-city,-township,-school-corporation,-political~~
14 ~~subdivision,-nonprofit-corporation-other-than-a-fair~~
15 ~~conducting-a-fair-event-as-provided-in-chapter-174,-whose~~
16 ~~facilities-or-indebtedness-are-supported-in-whole-or-in-part~~
17 ~~with-property-tax-revenue-and-which-is-licensed-to-conduct~~
18 ~~pari-mutuel-wagering-pursuant-to-chapter-99B,-or-tax-supported~~
19 ~~district-in-this-state,-or-any-branch,-department,-board,-~~
20 ~~bureau,-commission,-council,-or-committee-of-any-of-the~~
21 ~~foregoing,-~~

22 ~~"Public-records"-also-includes-all-records-relating-to-the~~
23 ~~investment-of-public-funds-including-but-not-limited-to~~
24 ~~investment-policies,-instructions,-trading-orders,-or~~
25 ~~contracts,-whether-in-the-custody-of-the-public-body~~
26 ~~responsible-for-the-public-funds-or-a-fiduciary-or-other-third~~
27 ~~party,-~~

28 5. "Optional public record" means a government record
29 designated by statute as unavailable for examination and
30 copying by members of the public unless otherwise ordered by a
31 court, by the lawful custodian of the records, or by another
32 person duly authorized to release such information.

33 6. "Public record" means a government record to which
34 members of the public have an unqualified right to examine and
35 copy and includes a government record not designated by

1 statute as either a confidential record or an optional public
2 record.

3 7. "Record" means information of every kind, nature, and
4 form preserved or stored in any medium including but not
5 limited to paper, electronic media, or film media.

6 Sec. 11. Section 22.2, subsection 2, Code 2007, is amended
7 to read as follows:

8 2. A government body shall not prevent the examination or
9 copying of a public record by contracting with a nongovernment
10 body to perform any of its duties or functions. A record
11 created by, in the possession of, or under the control of, any
12 nongovernment body or person, which is a direct part of the
13 execution or performance of duties imposed upon the
14 nongovernment body or person by contract with a government
15 body under which the nongovernment body or person performs a
16 function of the government body, is a government record. The
17 lawful custodian of such a government record is the government
18 body with whom the nongovernment body or person has executed
19 the contract.

20 Sec. 12. NEW SECTION. 22.2A RECORD REQUESTS -- TIME
21 LIMITS.

22 1. Upon receipt of an oral or written request to examine
23 or copy a public record, the lawful custodian shall, if
24 feasible in the ordinary course of business, permit such
25 examination or copying at the time of the request. If it is
26 not feasible in the ordinary course of business to permit
27 examination or copying of the public record at the time of the
28 request, the lawful custodian shall immediately notify the
29 requester, orally or in writing, when such examination or
30 copying may take place, which shall be no later than five
31 business days from the time of the request unless there is
32 good cause for further delay. If further delay is necessary
33 because of good cause, the lawful custodian shall provide the
34 requester with a written statement detailing the reason or
35 reasons for the delay and the date by which the request will

1 be satisfied.

2 2. If the lawful custodian is in doubt as to whether the
3 record requested is a public record or whether the requester
4 should be permitted to examine or copy an optional public
5 record specified in section 22.7, the lawful custodian shall
6 make that determination within ten business days from the date
7 of the request. Examination or copying of the government
8 record must be allowed within five business days from the date
9 the lawful custodian makes the decision in such circumstances
10 to permit examination or copying of the record.

11 3. If the lawful custodian denies a request to examine or
12 copy a public record, the custodian must provide the requester
13 at the time of the denial a written statement denying the
14 request and detailing the specific reason or reasons for the
15 denial.

16 4. If the lawful custodian does not fulfill a request to
17 examine or copy a public record within the times prescribed in
18 this section, the request shall be deemed denied and the
19 requester shall be entitled to file a complaint with the Iowa
20 public information board pursuant to section 23.7 or file a
21 lawsuit against the lawful custodian pursuant to section
22 22.10.

23 Sec. 13. Section 22.4, Code 2007, is amended to read as
24 follows:

25 22.4 HOURS WHEN AVAILABLE.

26 The rights of persons under this chapter may be exercised
27 at any time during the customary office hours of the lawful
28 custodian of the government records. However, if the lawful
29 custodian does not have customary office hours of at least
30 thirty hours per week, such right may be exercised at any time
31 from nine o'clock a.m. to noon and from one o'clock p.m. to
32 four o'clock p.m. Monday through Friday, excluding legal
33 holidays, unless the person exercising such right and the
34 lawful custodian agree on a different time.

35 Sec. 14. Section 22.7, subsection 10, Code Supplement

1 2007, is amended by striking the subsection.

2 Sec. 15. Section 22.7, subsection 11, Code Supplement
3 2007, is amended to read as follows:

4 11. Personal information in confidential personnel records
5 of public government bodies including-but-not-limited-to
6 cities, boards of supervisors and school districts relating to
7 identified or identifiable individuals who are officials,
8 officers, or employees of the government bodies. However, the
9 following information relating to such individuals contained
10 in personnel records shall be public records:

11 a. The name and compensation of the individual. For
12 purposes of this paragraph, "compensation" means the same as
13 defined in section 8F.2.

14 b. The date the individual was employed by the government
15 body.

16 c. The positions the individual holds or has held with the
17 government body.

18 d. The individual's qualifications for the position that
19 the individual holds or has held including but not limited to
20 educational background and work experience.

21 e. Any final disciplinary action taken against the
22 individual that resulted in the individual's discharge,
23 suspension, demotion, or loss of pay.

24 Sec. 16. Section 22.7, subsection 13, Code Supplement
25 2007, is amended to read as follows:

26 13. The records of a library which, by themselves or when
27 examined with other public records, would reveal the identity
28 of the library patron checking out or requesting an item or
29 information from the library. The records shall be released
30 to a criminal or juvenile justice agency only pursuant to an
31 investigation of a particular person or organization suspected
32 of committing a known crime. The records shall be released
33 only upon a judicial determination that a rational connection
34 exists between the requested release of information and a
35 legitimate end and that the need for the information is cogent

1 and compelling. This subsection shall not be construed to
2 prohibit a library from disclosing to an identified parent or
3 guardian information regarding the items borrowed or requested
4 by an identified library patron who is the minor child of the
5 parent or guardian.

6 Sec. 17. Section 22.7, subsection 18, Code Supplement
7 2007, is amended to read as follows:

8 18. a. Communications not required by law, rule,
9 procedure, or contract that are made to a government body or
10 to any of its employees by identified persons outside of
11 government, to the extent that the government body receiving
12 those communications from such persons outside of government
13 could reasonably believe that those persons would be
14 discouraged from making them to that government body if they
15 were available for general public examination. As used in
16 this subsection, "persons outside of government" does not
17 include persons or employees of persons who are communicating
18 with respect to a consulting or contractual relationship with
19 a government body or who are communicating with a government
20 body with whom an arrangement for compensation exists.

21 Notwithstanding this provision:

22 a. (1) The communication is a public record to the extent
23 that the person outside of government making that
24 communication consents to its treatment as a public record.

25 b. (2) Information contained in the communication is a
26 public record to the extent that it can be disclosed without
27 directly or indirectly indicating the identity of the person
28 outside of government making it or enabling others to
29 ascertain the identity of that person.

30 c. (3) Information contained in the communication is a
31 public record to the extent that it indicates the date, time,
32 specific location, and immediate facts and circumstances
33 surrounding the occurrence of a crime or other illegal act,
34 except to the extent that its disclosure would plainly and
35 seriously jeopardize a continuing investigation or pose a

1 clear and present danger to the safety of any person. In any
2 action challenging the failure of the lawful custodian to
3 disclose any particular information of the kind enumerated in
4 this paragraph, the burden of proof is on the lawful custodian
5 to demonstrate that the disclosure of that information would
6 jeopardize such an investigation or would pose such a clear
7 and present danger.

8 b. This subsection does not apply to information relating
9 to applications to a government body for employment.

10 Sec. 18. Section 22.7, subsection 52, paragraphs a and c,
11 Code Supplement 2007, are amended to read as follows:

12 a. The following records relating to a charitable donation
13 ~~made-to-a-foundation-acting-solely-for-the-support-of-an~~
14 ~~institution-governed-by-the-state-board-of-regents,-to-a~~
15 ~~foundation-acting-solely-for-the-support-of-an-institution~~
16 ~~governed-by-chapter-260C,-to-a-private-foundation-as-defined~~
17 ~~in-section-509-of-the-Internal-Revenue-Code-organized-for-the~~
18 ~~support-of-a-government-body,-or-to-an-endow-Iowa-qualified~~
19 ~~community-foundation,-as-defined-in-section-15E-303,-organized~~
20 ~~for-the-support-of-a-government-body:~~

21 (1) Portions of records that disclose a donor's or
22 prospective donor's personal, financial, estate planning, or
23 gift planning matters.

24 (2) Records received from a donor or prospective donor
25 regarding such donor's prospective gift or pledge.

26 (3) Records containing information about a donor or a
27 prospective donor in regard to the appropriateness of the
28 solicitation and dollar amount of the gift or pledge.

29 (4) Portions of records that identify a prospective donor
30 and that provide information on the appropriateness of the
31 solicitation, the form of the gift or dollar amount requested
32 by the solicitor, and the name of the solicitor.

33 (5) Portions of records disclosing the identity of a donor
34 or prospective donor, including the specific form of gift or
35 pledge that could identify a donor or prospective donor,

1 directly or indirectly, when such donor has requested
2 anonymity in connection with the gift or pledge. This
3 subparagraph does not apply to a gift or pledge from a
4 publicly held business corporation.

5 c. Except as provided in paragraphs "a" and "b", portions
6 of records relating to the receipt, holding, and disbursement
7 of gifts made for the benefit of regents institutions and made
8 through foundations established for support of regents
9 institutions, including but not limited to written
10 fund-raising policies and documents evidencing fund-raising
11 practices, shall be subject to this chapter. Unless otherwise
12 provided, the lawful custodian of all records subject to this
13 paragraph is the regents institution to be benefited by such
14 gifts.

15 Sec. 19. Section 22.7, Code Supplement 2007, is amended by
16 adding the following new subsections:

17 NEW SUBSECTION. 60. PUBLIC EMPLOYMENT APPLICATIONS.

18 a. The identity and qualifications of an applicant for
19 employment by a government body if the applicant requests
20 anonymity in writing and the government body determines that
21 anonymity is necessary to induce the applicant to apply for
22 the employment position. Such information shall be exempt
23 from disclosure until an applicant is considered by the
24 government body to be a finalist for the position. For
25 purposes of this subsection, "finalist" means any applicant
26 who is determined to be among those who are under final
27 consideration for the position, and at least includes the five
28 most qualified applicants as determined by the recommending or
29 selecting authority. If there are five or fewer applicants
30 for the particular position, all of the applicants shall be
31 considered finalists for purposes of this subsection. The
32 identities and qualifications of the finalists shall be made
33 available for public inspection at least three business days
34 prior to a final decision.

35 b. Documents relating to a government body's evaluation of

1 the qualifications and merits of an applicant for employment
2 by that government body.

3 NEW SUBSECTION. 61. INFORMATION INVADING PERSONAL
4 PRIVACY.

5 a. Information about and linked to an identified or
6 identifiable person that, if disclosed to the general public,
7 would constitute an unwarranted or undue invasion of personal
8 privacy or that would present a clear and serious danger of
9 facilitating identity theft or other criminal activity in
10 relation to that person. For purposes of this subsection,
11 "unwarranted or undue invasion of personal privacy" means the
12 public disclosure of particular information about and linked
13 to an identified or identifiable person that is likely to
14 subject such person to potential harm of such person's
15 personal privacy interests or personal security interests that
16 clearly outweighs any potential benefit to the public interest
17 from disclosure of such information. Information about and
18 linked to an identified or identifiable person excluded from
19 public inspection by this paragraph includes but is not
20 limited to social security numbers, driver's license numbers,
21 credit card and bank account numbers, and personal financial
22 data other than the salary and benefits of a public official
23 or employee and any financial statements required to be filed
24 by a public official or public employee to avoid a conflict of
25 interest.

26 b. Information exempted from public disclosure by this
27 subsection does not include information about and linked to an
28 identified or identifiable person released by the lawful
29 custodian with the person's written consent or information
30 relating to the execution of duties by a public official or
31 public employee.

32 NEW SUBSECTION. 62. TENTATIVE, PRELIMINARY, OR DRAFT
33 MATERIALS. Tentative, preliminary, draft, speculative, or
34 research material, created prior to its final completion for
35 the purpose for which it is intended and in a form prior to

1 the form in which it is submitted for use in the final
2 formulation, recommendation, adoption, or execution of any
3 official policy or action by a public official authorized to
4 make such decisions for the government body. Such materials
5 shall be treated as a public record at the time the materials
6 are actually used for the final formulation, recommendation,
7 adoption, or execution of any official policy or action of a
8 government body.

9 NEW SUBSECTION. 63. CLOSED SESSION RECORDS. Records
10 containing information that would permit a governmental body
11 subject to chapter 21 to hold a closed session pursuant to
12 section 21.5 in order to avoid public disclosure of that
13 information.

14 Sec. 20. Section 22.8, subsection 1, Code 2007, is amended
15 to read as follows:

16 1. The district court may grant an injunction restraining
17 the examination, including copying, of a specific public
18 record or a narrowly drawn class of public records. A hearing
19 shall be held on a request for injunction upon reasonable
20 notice as determined by the court to persons requesting access
21 to the record which is the subject of the request for
22 injunction. It shall be the duty of the lawful custodian and
23 any other person seeking an injunction to ensure compliance
24 with the notice requirement. Such an injunction may be issued
25 only if the petition supported by affidavit shows and if the
26 court finds both any of the following:

27 a. That the examination would clearly not be in the public
28 interest because the potential harm to the public interest
29 from disclosure of the particular information involved clearly
30 outweighs any potential benefit to the public interest from
31 disclosure.

32 b. That the examination would substantially and
33 irreparably injure any person or persons because it would
34 invade the personal privacy of the identified subject of the
35 record and the harm to that person from such disclosure is not

1 outweighed by the public interest in its disclosure.

2 c. That the record at issue is not a public record.

3 d. That the record at issue is a record exempt from
4 mandatory disclosure pursuant to section 22.7 and that a
5 determination by the custodian to permit inspection of the
6 record by one or more members of the public is a violation of
7 law or is arbitrary, capricious, unreasonable, or an abuse of
8 discretion.

9 Sec. 21. Section 22.8, subsection 4, paragraphs c and d,
10 Code 2007, are amended to read as follows:

11 c. To determine whether the government record in question
12 is a public record, an optional public record, or a
13 confidential record.

14 d. To determine whether ~~a-confidential~~ an optional public
15 record should be available for inspection and copying to the
16 person requesting the right to do so. A reasonable delay for
17 this purpose shall not exceed ~~twenty-calendar-days-and~~
18 ~~ordinarily-should-not-exceed~~ ten business days.

19 Sec. 22. Section 22.10, subsection 3, paragraph b, Code
20 2007, is amended to read as follows:

21 b. Shall assess the persons who participated in its
22 violation damages in the amount of not more than two thousand
23 five hundred dollars ~~nor~~ and not less than one ~~hundred~~
24 thousand dollars. These damages shall be paid by the court
25 imposing them to the state of Iowa if the body in question is
26 a state government body, or to the local government involved
27 if the body in question is a local government body. A person
28 found to have violated this chapter shall not be assessed such
29 damages if that person proves that the person ~~either-voted~~ did
30 any of the following:

31 (1) Voted against the action violating this chapter,
32 refused to participate in the action violating this chapter,
33 or engaged in reasonable efforts under the circumstances to
34 resist or prevent the action in violation of this chapter;
35 had.

1 (2) Had good reason to believe and in good faith believed
2 facts which, if true, would have indicated compliance with the
3 requirements of this chapter;~~-or-reasonably.~~

4 (3) Reasonably relied upon a decision of a court or an
5 opinion of the Iowa public information board, the attorney
6 general, or the attorney for the government body.

7 Sec. 23. Section 22.10, subsection 5, Code 2007, is
8 amended by striking the subsection.

9 Sec. 24. Section 22.13, Code 2007, is amended to read as
10 follows:

11 22.13 ~~SETTLEMENTS -- GOVERNMENTAL~~ GOVERNMENT BODIES.

12 1. A written summary of the terms of settlement, including
13 amounts of payments made to or through a claimant, or other
14 disposition of any claim for damages made against a
15 ~~governmental~~ government body or against an employee, officer,
16 or agent of a ~~governmental~~ government body, by an insurer
17 pursuant to a contract of liability insurance issued to the
18 ~~governmental~~ government body, shall be filed with the
19 ~~governmental~~ government body and shall be a public record.

20 2. A final binding settlement agreement between any
21 government body of this state or unit or official of such a
22 government body that resolves a legal dispute between such a
23 government body and another person or entity shall include a
24 brief summary indicating the identity of the parties involved,
25 the nature of the dispute, any underlying relevant facts that
26 are agreed to by the parties and that are disputed by the
27 parties, and the terms of the settlement, and shall be filed
28 with the government body and shall be available for public
29 inspection.

30 Sec. 25. Section 22.14, subsection 3, Code 2007, is
31 amended to read as follows:

32 3. If a fiduciary or other third party with custody of
33 public investment transactions records fails to produce public
34 records within a reasonable period of time as requested by the
35 ~~public~~ government body, the ~~public~~ government body shall make

1 no new investments with or through the fiduciary or other
2 third party and shall not renew existing investments upon
3 their maturity with or through the fiduciary or other third
4 party. The fiduciary or other third party shall be liable for
5 the penalties imposed under ~~section-22-6~~ statute, common law,
6 or contract due to the acts or omissions of the fiduciary or
7 other third party ~~and-any-other-remedies-available-under~~
8 ~~statute, common-law, or contract.~~

9 Sec. 26. NEW SECTION. 23.1 CITATION AND PURPOSE.

10 This chapter may be cited as the "Iowa Public Information
11 Board Act". The purpose of this chapter is to provide an
12 alternative means by which to secure compliance with and
13 enforcement of the requirements of chapters 21 and 22.

14 Sec. 27. NEW SECTION. 23.2 DEFINITIONS.

15 1. "Board" means the Iowa public information board created
16 in section 23.3.

17 2. "Complainant" means a person who files a complaint with
18 the board.

19 3. "Complaint" means a written and signed document filed
20 with the board alleging a violation of chapter 21 or 22.

21 4. "Custodian" means a government body, government
22 official, or government employee designated as the lawful
23 custodian of a government record pursuant to section 22.1.

24 5. "Government body" means the same as defined in section
25 22.1.

26 6. "Person" means an individual, partnership, association,
27 corporation, legal representative, trustee, receiver,
28 custodian, government body, or official, employee, agency, or
29 political subdivision of this state.

30 7. "Respondent" means any agency or other unit of state or
31 local government, custodian, government official, or
32 government employee who is the subject of a complaint.

33 Sec. 28. NEW SECTION. 23.3 BOARD APPOINTED.

34 1. An Iowa public information board is created consisting
35 of five members appointed by the governor, subject to

1 confirmation by the senate. Membership shall be balanced as
2 to political affiliation as provided in section 69.16 and
3 gender as provided in section 69.16A. Members appointed to
4 the board shall serve staggered, four-year terms, beginning
5 and ending as provided by section 69.19. A quorum shall
6 consist of three members.

7 2. A vacancy on the board shall be filled by the governor
8 by appointment for the unexpired part of the term. A board
9 member may be removed from office by the governor for good
10 cause. The board shall select one of its members to serve as
11 chair and shall employ a director who shall serve as the
12 executive officer of the board.

13 Sec. 29. NEW SECTION. 23.4 COMPENSATION AND EXPENSES.

14 Board members shall be paid a per diem as specified in
15 section 7E.6 and shall be reimbursed for actual and necessary
16 expenses incurred while on official board business. Per diem
17 and expenses shall be paid from funds appropriated to the
18 board.

19 Sec. 30. NEW SECTION. 23.5 ELECTION OF REMEDIES.

20 1. An aggrieved person, any taxpayer to or citizen of this
21 state, the attorney general, or any county attorney may seek
22 enforcement of the requirements of chapters 21 and 22 by
23 electing either to file an action pursuant to section 17A.19,
24 21.6, or 22.10, whichever is applicable, or in the
25 alternative, to file a timely complaint with the board.

26 2. If more than one person seeks enforcement of chapter 21
27 or 22 with respect to the same incident involving an alleged
28 violation, and one or more of such persons elects to do so by
29 filing an action under section 17A.19, 21.6, or 22.10 and one
30 or more of such persons elects to do so by filing a timely
31 complaint with the board, the court in which the action was
32 filed shall dismiss the action without prejudice, authorizing
33 the complainant to file a complaint with respect to the same
34 incident with the board without regard to the timeliness of
35 the filing of the complaint at the time the action in court is

1 dismissed.

2 3. If a government body files an action pursuant to
3 section 22.8 seeking to enjoin the inspection of a public
4 record, the respondent may remove the proceeding to the board
5 for its determination by filing, within thirty days of the
6 commencement of the judicial proceeding, a complaint with the
7 board alleging a violation of chapter 22 in regard to the same
8 matter.

9 Sec. 31. NEW SECTION. 23.6 BOARD POWERS AND DUTIES.

10 The board shall have all of the following powers and
11 duties:

12 1. Employ such employees as are necessary to execute its
13 authority, including administrative law judges, and attorneys
14 to prosecute respondents in proceedings before the board and
15 to represent the board in proceedings before a court.

16 Notwithstanding section 8A.412, all of the board's employees,
17 except for the executive director and legal counsels, shall be
18 employed subject to the merit system provisions of chapter 8A,
19 subchapter IV.

20 2. Adopt rules with the force of law pursuant to chapter
21 17A calculated to implement, enforce, and interpret the
22 requirements of chapters 21 and 22 and to implement any
23 authority delegated to the board by this chapter.

24 3. Issue, consistent with the requirements of section
25 17A.9, declaratory orders with the force of law determining
26 the applicability of chapter 21 or 22 to specified fact
27 situations.

28 4. Receive complaints alleging violations of chapter 21 or
29 22, seek resolution of such complaints through mediation and
30 settlement, formally investigate such complaints, decide after
31 such an investigation whether there is probable cause to
32 believe a violation of chapter 21 or 22 has occurred, and if
33 probable cause has been found prosecute the respondent before
34 the board in a contested case proceeding conducted according
35 to the provisions of chapter 17A.

1 5. Issue subpoenas enforceable in court for the purpose of
2 investigating complaints and to facilitate the prosecution and
3 conduct of contested cases before the board.

4 6. After appropriate board proceedings, issue orders with
5 the force of law, determining whether there has been a
6 violation of chapter 21 or 22, requiring compliance with
7 specified provisions of those chapters, imposing civil
8 penalties equivalent to and to the same extent as those
9 provided for in section 21.6 or 22.10, as applicable, on a
10 respondent who has been found in violation of chapter 21 or
11 22, and imposing any other appropriate remedies calculated to
12 declare, terminate, or remediate any violation of those
13 chapters.

14 7. Represent itself in judicial proceedings to enforce or
15 defend its orders and rules through attorneys on its own
16 staff, through the office of the attorney general, or through
17 other attorneys retained by the board, at its option.

18 8. Make training opportunities available to lawful
19 custodians, government bodies, and other persons subject to
20 the requirements of chapters 21 and 22 and require, in its
21 discretion, appropriate persons who have responsibilities in
22 relation to chapters 21 and 22 to receive periodic training
23 approved by the board.

24 9. Disseminate information calculated to inform members of
25 the public about the public's right to access government
26 information in this state including procedures to facilitate
27 this access and including information relating to the
28 obligations of government bodies under chapter 21 and lawful
29 custodians under chapter 22 and other laws dealing with this
30 subject.

31 10. Prepare and transmit to the governor and to the
32 general assembly, at least annually, reports describing
33 complaints received, board proceedings, investigations,
34 hearings conducted, decisions rendered, and other work
35 performed by the board.

1 11. Make recommendations to the general assembly proposing
2 legislation relating to public access to government
3 information deemed desirable by the board in light of the
4 policy of this state to provide as much public access as
5 possible to government information as is consistent with the
6 public interest and the need to protect individuals against
7 undue invasions of personal privacy.

8 Sec. 32. NEW SECTION. 23.7 FILING OF COMPLAINTS WITH THE
9 BOARD.

10 1. The board shall adopt rules with the force of law and
11 pursuant to chapter 17A providing for the timing, form,
12 content, and means by which any aggrieved person, any taxpayer
13 to or citizen of this state, the attorney general, or any
14 county attorney may file a complaint with the board alleging a
15 violation of chapter 21 or 22. The complaint must be filed
16 within sixty days from the time the alleged violation occurred
17 or the complainant could have become aware of the violation
18 with reasonable diligence.

19 2. All board proceedings in response to the filing of a
20 complaint shall be conducted as expeditiously as possible.

21 3. The board shall not charge a complainant any fee in
22 relation to the filing of a complaint, the processing of a
23 complaint, or any board proceeding or judicial proceeding
24 resulting from the filing of a complaint.

25 Sec. 33. NEW SECTION. 23.8 INITIAL PROCESSING OF
26 COMPLAINT.

27 Upon receipt of a complaint alleging a violation of chapter
28 21 or 22, the board shall do either of the following:

29 1. Determine that, on its face, the complaint is within
30 the board's jurisdiction, appears legally sufficient, and
31 could have merit. In such a case the board shall accept the
32 complaint, and shall notify the parties of that fact in
33 writing.

34 2. Determine that, on its face, the complaint is outside
35 its jurisdiction, is legally insufficient, is without merit,

1 or relates to a specific incident that has previously been
2 finally disposed of on its merits by the board or a court. In
3 such a case the board shall decline to accept the complaint.
4 If the board refuses to accept a complaint, the board shall
5 provide the complainant with a written order explaining its
6 reasons for the action.

7 Sec. 34. NEW SECTION. 23.9 MEDIATION AND SETTLEMENT.

8 1. After accepting a complaint, the board shall offer the
9 parties an opportunity to resolve the dispute through
10 mediation and settlement if the board determines that the
11 matter is unlikely to be resolved with the prompt informal
12 assistance of a board employee.

13 2. The mediation and settlement process shall enable the
14 complainant to attempt to resolve the dispute with the aid of
15 a neutral mediator employed and selected by the board, in its
16 discretion, from either its own staff or an outside source.

17 3. Mediation shall be conducted as an informal,
18 nonadversarial process and in a manner calculated to help the
19 parties reach a mutually acceptable and voluntary settlement
20 agreement. The mediator shall assist the parties in
21 identifying issues and shall foster joint problem solving and
22 the exploration of settlement alternatives.

23 Sec. 35. NEW SECTION. 23.10 ENFORCEMENT.

24 1. If any party declines mediation or settlement or if
25 mediation or settlement fails to resolve the matter to the
26 satisfaction of all parties, the board shall initiate a formal
27 investigation concerning the facts and circumstances set forth
28 in the complaint. The board shall, after an appropriate
29 investigation, make a determination as to whether the
30 complaint is within the board's jurisdiction and whether there
31 is probable cause to believe that the facts and circumstances
32 alleged in the complaint constitute a violation of chapter 21
33 or 22.

34 2. If the board finds the complaint is outside the board's
35 jurisdiction or there is no probable cause to believe there

1 has been a violation of chapter 21 or 22, the board shall
2 issue a written order explaining the reasons for the board's
3 conclusions and dismissing the complaint, and shall transmit a
4 copy to the complainant and to the party against whom the
5 complaint was filed.

6 3. a. If the board finds the complaint is within the
7 board's jurisdiction and there is probable cause to believe
8 there has been a violation of chapter 21 or 22, the board
9 shall issue a written order to that effect and shall commence
10 a contested case proceeding under chapter 17A against the
11 respondent. An attorney selected by the director of the board
12 shall prosecute the respondent in the contested case
13 proceeding. At the termination of the contested case
14 proceeding the board shall, by a majority vote of its members,
15 render a final decision as to the merits of the complaint. If
16 the board finds that the complaint has merit, the board may
17 issue any appropriate order to ensure enforcement of chapter
18 21 or 22 including but not limited to an order requiring
19 specified action or prohibiting specified action and any
20 appropriate order to remedy any failure of the respondent to
21 observe any provision of those chapters.

22 b. If the board determines, by a majority vote of its
23 members, that the respondent has violated chapter 21 or 22,
24 the board may also do any or all of the following:

25 (1) Require the respondent to pay damages as provided for
26 in section 21.6 or 22.10, whichever is applicable, to the
27 extent that provision would make such damages payable if the
28 complainant had sought to enforce a violation in court instead
29 of through the board.

30 (2) Void any action taken in violation of chapter 21 if a
31 court would be authorized to do so in similar circumstances
32 pursuant to section 21.6.

33 c. The board shall not have the authority to remove a
34 person from public office for a violation of chapter 21 or 22.
35 The board may file an action under chapter 21 or 22 to remove

1 a person from office for violations that would subject a
2 person to removal under those chapters.

3 d. A final board order resulting from such proceedings may
4 be enforced by the board in court and is subject to judicial
5 review pursuant to section 17A.19.

6 Sec. 36. NEW SECTION. 23.11 DEFENSES IN A CONTESTED CASE
7 PROCEEDING.

8 A respondent may defend against a proceeding before the
9 board charging a violation of chapter 21 or 22 on the ground
10 that if such a violation occurred it was only harmless error
11 or that clear and convincing evidence demonstrated that
12 grounds existed to justify a court to issue an injunction
13 against disclosure pursuant to section 22.8.

14 Sec. 37. NEW SECTION. 23.12 JURISDICTION.

15 The board shall not have jurisdiction over the judicial or
16 legislative branches of state government or any agency,
17 officer, or employee of those branches, or over the governor
18 or the office of the governor.

19 Sec. 38. Section 34A.7A, subsection 4, Code Supplement
20 2007, is amended to read as follows:

21 4. The amount collected from a wireless service provider
22 and deposited in the fund, pursuant to section 22.7,
23 subsection 6, information provided by a wireless service
24 provider to the program manager consisting of trade secrets,
25 pursuant to section 22.7, subsection 3, and other financial or
26 commercial operations information provided by a wireless
27 service provider to the program manager, shall be ~~kept~~
28 ~~confidential~~ an optional public record as provided under
29 section 22.7. This subsection does not prohibit the inclusion
30 of information in any report providing aggregate amounts and
31 information which does not identify numbers of accounts or
32 customers, revenues, or expenses attributable to an individual
33 wireless communications service provider.

34 Sec. 39. Section 68B.32B, subsection 11, Code Supplement
35 2007, is amended to read as follows:

1 11. A complaint shall be a public record, but some or all
2 of the contents may be treated as ~~confidential~~ an optional
3 public record under section 22.7, subsection 18, to the extent
4 necessary under subsection 3 of this section. Information
5 informally reported to the board and board staff which results
6 in a board-initiated investigation shall be a public record
7 but may be treated as ~~confidential-information~~ an optional
8 public record consistent with the provisions of section 22.7,
9 subsection 18. If the complainant, the person who provides
10 information to the board, or the person who is the subject of
11 an investigation publicly discloses the existence of an
12 investigation, the board may publicly confirm the existence of
13 the disclosed formal complaint or investigation and, in the
14 board's discretion, make the complaint or the informal
15 referral public, as well as any other documents that were
16 issued by the board to any party to the investigation.
17 However, investigative materials may be furnished to the
18 appropriate law enforcement authorities by the board at any
19 time. Upon the commencement of a contested case proceeding by
20 the board, all investigative material relating to that
21 proceeding shall be made available to the subject of the
22 proceeding. The entire record of any contested case
23 proceeding initiated under this section shall be a public
24 record.

25 Sec. 40. Section 76.11, Code 2007, is amended to read as
26 follows:

27 76.11 CONFIDENTIALITY OF BOND HOLDERS -- EXCEPTIONS.

28 Records of identity of owners of public bonds or
29 obligations maintained as provided in section 76.10 or by the
30 issuer of the bonds are ~~confidential~~ optional public records
31 ~~entitled-to-protection~~ under section 22.7, subsection 17-
32 ~~However,~~ and the issuer of the bonds or a state or federal
33 agency may obtain information as necessary.

34 Sec. 41. Section 124.553, subsection 3, Code Supplement
35 2007, is amended to read as follows:

1 3. Information contained in the program and any
2 information obtained from it, and information contained in the
3 records of requests for information from the program, is
4 privileged and strictly confidential information. Such
5 information is ~~a-confidential~~ an optional public record
6 pursuant to section 22.7, and is not subject to discovery,
7 subpoena, or other means of legal compulsion for release
8 except as provided in this division. Information from the
9 program shall not be released, shared with an agency or
10 institution, or made public except as provided in this
11 division.

12 Sec. 42. Section 135.43, subsection 7, paragraphs a and b,
13 Code Supplement 2007, are amended to read as follows:

14 a. The Iowa department of public health and the department
15 of human services shall adopt rules providing for disclosure
16 of optional public record information ~~which-is-confidential~~
17 under chapter 22 or any confidential record information under
18 any other provision of state law, to the review team for
19 purposes of performing its child death and child abuse review
20 responsibilities.

21 b. A person in possession or control of medical,
22 investigative, assessment, or other information pertaining to
23 a child death and child abuse review shall allow the
24 inspection and reproduction of the information by the
25 department upon the request of the department, to be used only
26 in the administration and for the duties of the Iowa child
27 death review team. Except as provided for a report on a child
28 fatality by an ad hoc child fatality review committee under
29 subsection 4, information and records produced under this
30 section which are ~~confidential~~ optional public records under
31 section 22.7 and confidential records under chapter 235A, and
32 information or records received from the confidential records,
33 remain confidential under this section. A person does not
34 incur legal liability by reason of releasing information to
35 the department as required under and in compliance with this

1 section.

2 Sec. 43. Section 147A.26, subsection 2, Code 2007, is
3 amended to read as follows:

4 2. The data collected by and furnished to the department
5 pursuant to this section are ~~confidential~~ optional public
6 records of the condition, diagnosis, care, or treatment of
7 patients or former patients, including outpatients, pursuant
8 to section 22.7. The compilations prepared for release or
9 dissemination from the data collected are not confidential
10 under section 22.7, subsection 2. However, information which
11 individually identifies patients shall not be disclosed and
12 state and federal law regarding patient confidentiality shall
13 apply.

14 Sec. 44. Section 202A.2, subsection 3, paragraph b, Code
15 2007, is amended to read as follows:

16 b. The department, in consultation with the office of
17 attorney general, shall designate information in purchase
18 reports that reveals the identity of a packer or livestock
19 seller as ~~confidential~~ optional public records pursuant to
20 section 22.7.

21 Sec. 45. Section 232.149, subsection 2, Code 2007, is
22 amended to read as follows:

23 2. Records and files of a criminal or juvenile justice
24 agency concerning a child involved in a delinquent act are
25 public records, except that release of criminal history data,
26 intelligence data, and law enforcement investigatory files is
27 subject to the provisions of section 22.7 and chapter 692, and
28 juvenile court social records, as defined in section 232.2,
29 subsection 31, shall be deemed ~~confidential~~ optional public
30 record criminal identification files under section 22.7,
31 subsection 9. The records are subject to sealing under
32 section 232.150 unless the juvenile court waives its
33 jurisdiction over the child so that the child may be
34 prosecuted as an adult for a public offense.

35 Sec. 46. Section 252B.24, subsection 3, Code 2007, is

1 amended to read as follows:

2 3. The records of the state case registry are ~~confidential~~
3 optional public records pursuant to chapter 22 and may only be
4 disclosed or used as provided in section 252B.9.

5 Sec. 47. Section 252G.5, unnumbered paragraph 1, Code
6 2007, is amended to read as follows:

7 The records of the centralized employee registry are
8 confidential records pursuant to ~~sections-22-7-and~~ section
9 252B.9, and may be accessed only by state agencies as provided
10 in this section and section 252B.9. When a state agency
11 accesses information in the registry, the agency may use the
12 information to update the agency's own records. Access to and
13 use of the information contained in the registry shall be
14 limited to the following:

15 Sec. 48. Section 321.189A, subsection 6, Code 2007, is
16 amended to read as follows:

17 6. The department shall keep ~~as-confidential-public~~
18 ~~records-under-section-22-7,~~ all records regarding licenses
19 issued under this section as optional public records under
20 section 22.7.

21 Sec. 49. Section 452A.33, subsection 1, paragraph d, Code
22 2007, is amended to read as follows:

23 d. The information included in a report submitted by a
24 retail dealer is deemed to be a trade secret, ~~protected-as-a~~
25 ~~confidential-record~~ and is an optional public record pursuant
26 to section 22.7.

27 Sec. 50. Section 452A.33, subsection 2, paragraph c, Code
28 2007, is amended to read as follows:

29 c. The report shall not provide information regarding
30 motor fuel or biofuel which is sold and dispensed by an
31 individual retail dealer or at a particular retail motor fuel
32 site. The report shall not include a trade secret ~~protected~~
33 ~~as-a-confidential-record-pursuant~~ as referred to in section
34 22.7.

35 Sec. 51. Section 455K.4, subsection 4, Code 2007, is

1 amended to read as follows:

2 4. Information that is disclosed under subsection 2,
3 paragraph "b", is confidential and is not subject to
4 disclosure under chapter 22. ~~A-governmental-entity,~~
5 ~~governmental-employee,-or-governmental-official-who-discloses~~
6 ~~information-in-violation-of-this-subsection-is-subject-to-the~~
7 ~~penalty-provided-in-section-22-6-~~

8 Sec. 52. Section 476.74, subsection 4, Code 2007, is
9 amended to read as follows:

10 4. VERIFIED COPIES REQUIRED. Every public utility shall
11 file with the board a verified copy of the contract or
12 arrangement referred to in this section, or a verified summary
13 of the unwritten contract or arrangement, and also of all the
14 contracts and arrangements or a verified summary of the
15 unwritten contracts or arrangements, whether written or
16 unwritten, entered into prior to July 1, 1989, and in force
17 and effect at that time. Any contract or agreement determined
18 by the board to be ~~a-confidential~~ an optional public record
19 pursuant to section 22.7 shall be returned to the public
20 utility filing the ~~confidential~~ record within sixty days after
21 the contract or agreement is filed.

22 Sec. 53. Section 477A.7, subsection 3, paragraph b, Code
23 Supplement 2007, is amended to read as follows:

24 b. For purposes of this subsection, the number of
25 customers of a cable service provider or video service
26 provider shall be determined based on the relative number of
27 subscribers in that municipality at the end of the prior
28 calendar year as reported to the municipality by all incumbent
29 cable providers and holders of a certificate of franchise
30 authority. Any records showing the number of subscribers
31 shall be considered ~~confidential~~ optional public records
32 pursuant to section 22.7. The incumbent cable provider shall
33 provide to the municipality, on an annual basis, the
34 maintenance and support costs of the institutional network,
35 subject to an independent audit. A municipality acting under

1 this subsection shall notify and present a bill to competitive
2 cable service providers or competitive video service providers
3 for the amount of such support on an annual basis, beginning
4 one year after issuance of the certificate of franchise
5 authority. The annual institutional network support shall be
6 due and paid by the providers to the municipality in four
7 quarterly payments, not later than forty-five days after the
8 close of each quarter. The municipality shall reimburse the
9 incumbent cable provider for the amounts received from
10 competitive cable service providers or competitive video
11 service providers.

12 Sec. 54. Section 507.14, subsections 1 through 3, 5, and
13 6, Code Supplement 2007, are amended to read as follows:

14 1. A preliminary report of an examination of a domestic or
15 foreign insurer, and all notes, work papers, or other
16 documents related to an examination of an insurer are
17 ~~confidential~~ optional public records under chapter 22 except
18 when sought by the insurer to whom they relate, an insurance
19 regulator of another state, or the national association of
20 insurance commissioners, and shall be privileged and
21 confidential in any judicial or administrative proceeding
22 except any of the following:

23 a. An action commenced by the commissioner under chapter
24 507C.

25 b. An administrative proceeding brought by the insurance
26 division under chapter 17A.

27 c. A judicial review proceeding under chapter 17A brought
28 by an insurer to whom the records relate.

29 d. An action or proceeding which arises out of the
30 criminal provisions of the laws of this state or the United
31 States.

32 e. An action brought in a shareholders' derivative suit
33 against an insurer.

34 f. An action brought to recover moneys or to recover upon
35 an indemnity bond for embezzlement, misappropriation, or

1 misuse of insurer funds.

2 2. A report of an examination of a domestic or foreign
3 insurer which is preliminary under the rules of the division
4 is ~~a-confidential~~ an optional public record under chapter 22
5 except when sought by the insurer to which the report relates
6 or an insurance regulator of another state, and is privileged
7 and confidential in any judicial or administrative proceeding.

8 3. All work papers, notes, recorded information,
9 documents, market conduct annual statements, and copies
10 thereof that are produced or obtained by or disclosed to the
11 commissioner or any other person in the course of analysis by
12 the commissioner of the financial condition or market conduct
13 of an insurer are ~~confidential~~ optional public records under
14 chapter 22 and shall be privileged and confidential in any
15 judicial or administrative proceeding except any of the
16 following:

17 a. An action commenced by the commissioner under chapter
18 507C.

19 b. An administrative proceeding brought by the insurance
20 division under chapter 17A.

21 c. A judicial review proceeding under chapter 17A brought
22 by an insurer to whom the records relate.

23 d. An action or proceeding which arises out of the
24 criminal provisions of the laws of this state or the United
25 States.

26 5. A financial statement filed by an employer
27 self-insuring workers' compensation liability pursuant to
28 section 87.11, or the working papers of an examiner or the
29 division in connection with calculating appropriate security
30 and reserves for the self-insured employer are ~~confidential~~
31 optional public records under chapter 22 except when sought by
32 the employer to which the financial statement or working
33 papers relate or an insurance or workers' compensation
34 self-insurance regulator of another state, and are privileged
35 and confidential in any judicial or administrative proceeding.

1 The financial information of a nonpublicly traded employer
2 which self-insures for workers' compensation liability
3 pursuant to section 87.11 is protected as proprietary trade
4 secrets to the extent consistent with the commissioner's
5 duties to oversee the security of self-insured workers'
6 compensation liability.

7 6. Analysis notes, work papers, or other documents related
8 to the analysis of an insurer are ~~confidential~~ optional public
9 records under chapter 22.

10 Sec. 55. Section 507A.4, subsection 10, paragraph b, Code
11 Supplement 2007, is amended to read as follows:

12 b. The sponsor of the health benefit plan shall file an
13 application for waiver from the provisions of this chapter
14 with the commissioner as prescribed by the commissioner and
15 shall file periodic statements and information as required by
16 the commissioner. The commissioner shall adopt rules pursuant
17 to chapter 17A implementing this subsection. All statements
18 and information filed with or disclosed to the commissioner
19 pursuant to this subsection are ~~confidential~~ optional public
20 records pursuant to chapter 22.

21 Sec. 56. Section 507E.5, subsection 1, Code 2007, is
22 amended to read as follows:

23 1. All investigation files, investigation reports, and all
24 other investigative information in the possession of the
25 bureau are confidential records ~~under chapter 22~~ except as
26 specifically provided in this section and are not subject to
27 discovery, subpoena, or other means of legal compulsion for
28 their release until opened for public inspection by the
29 bureau, or upon the consent of the bureau, or until a court of
30 competent jurisdiction determines, after notice to the bureau
31 and hearing, that the bureau will not be unnecessarily
32 hindered in accomplishing the purposes of this chapter by
33 their opening for public inspection. However, investigative
34 information in the possession of the bureau may be disclosed,
35 in the commissioner's discretion, to appropriate licensing

1 authorities within this state, another state or the District
2 of Columbia, or a territory or country in which a licensee is
3 licensed or has applied for a license.

4 Sec. 57. Section 515.103, subsection 6, paragraph b, Code
5 Supplement 2007, is amended to read as follows:

6 b. Information filed with the commissioner of insurance
7 pursuant to this subsection shall be considered a confidential
8 record and be recognized ~~and-protected~~ as a trade secret
9 pursuant to section 22.7, subsection 3.

10 Sec. 58. Section 523A.204, subsection 3, Code Supplement
11 2007, is amended to read as follows:

12 3. All records maintained by the commissioner under this
13 section shall be ~~confidential~~ optional public records pursuant
14 to section 22.7, subsection 58, and shall not be made
15 available for inspection or copying except upon the approval
16 of the commissioner or the attorney general.

17 Sec. 59. Section 523A.502A, subsection 2, Code Supplement
18 2007, is amended to read as follows:

19 2. All records maintained by the commissioner under this
20 section shall be ~~confidential~~ optional public records pursuant
21 to section 22.7, subsection 58, and shall not be made
22 available for inspection or copying except upon the approval
23 of the commissioner or the attorney general.

24 Sec. 60. Section 523C.23, subsection 1, paragraph c,
25 unnumbered paragraph 1, Code 2007, is amended to read as
26 follows:

27 Information obtained in the course of an investigation ~~is~~
28 ~~confidential~~ shall be treated as an optional public record as
29 provided in section 22.7. However, upon a determination that
30 disclosure of the information is necessary or appropriate in
31 the public interest or for the protection of consumers, the
32 commissioner may do any of the following:

33 Sec. 61. Section 556.24A, subsection 2, Code Supplement
34 2007, is amended to read as follows:

35 2. Notwithstanding any other provision of law, any other

1 identifying information set forth in any report, record,
2 claim, or other document submitted to the treasurer of state
3 pursuant to this chapter concerning unclaimed or abandoned
4 property ~~is-a-confidential~~ shall be treated as an optional
5 public record as provided in section 22.7 and shall be made
6 available for public examination or copying only in the
7 discretion of the treasurer.

8 Sec. 62. Section 602.6111, subsection 3, Code 2007, is
9 amended by striking the subsection and inserting in lieu
10 thereof the following:

11 3. The supreme court may prescribe rules requiring
12 confidentiality of certain categories of material in records
13 maintained by the courts that are about and linked to an
14 identified or identifiable person and that, if disclosed to
15 the general public, would constitute an unwarranted or undue
16 invasion of personal privacy or that would present a clear and
17 serious danger of facilitating identity theft or other
18 criminal activity in relation to that person. For purposes of
19 this subsection, "unwarranted or undue invasion of personal
20 privacy" means the public disclosure of particular information
21 about and linked to an identified or identifiable person that
22 is likely to subject such person to potential harm of such
23 person's personal privacy interests or personal security
24 interests that clearly outweighs any potential benefit to the
25 public interest from disclosure of such information. The
26 rules prescribed pursuant to this subsection may specify the
27 manner and format in which such confidential information is to
28 be provided to a clerk of court, authorize the degree and
29 nature of the disclosure of such confidential information to
30 specified classes of persons, and indicate the manner and
31 format in which such confidential information is stored and
32 disclosed to appropriate persons by the clerk of court. Rules
33 prescribed by the supreme court pursuant to this subsection
34 shall prevail over any other conflicting state laws and
35 administrative rules.

1 Sec. 63. Section 692.8A, subsection 4, Code Supplement
2 2007, is amended to read as follows:

3 4. An intelligence assessment and intelligence data shall
4 be deemed ~~a-confidential~~ an optional public record of the
5 department under section 22.7, subsection 55, except as
6 otherwise provided in this subsection. This section shall not
7 be construed to prohibit the dissemination of an intelligence
8 assessment to any agency or organization if necessary for
9 carrying out the official duties of the agency or
10 organization, or to a person if disseminated for an official
11 purpose, and to a person if necessary to protect a person or
12 property from a threat of imminent serious harm. This section
13 shall also not be construed to prohibit the department from
14 disseminating a public health and safety threat advisory or
15 alert by press release or other method of public
16 communication.

17 Sec. 64. Section 692A.13, subsection 8, Code 2007, is
18 amended to read as follows:

19 8. Sex offender registry records are ~~confidential~~ optional
20 public records pursuant to section 22.7 and shall only be
21 released as provided in this section.

22 Sec. 65. Section 708.2B, unnumbered paragraph 2, Code
23 2007, is amended to read as follows:

24 District departments or contract service providers shall
25 receive upon request peace officers' investigative reports
26 regarding persons participating in programs under this
27 section. The receipt of reports under this section shall not
28 waive the confidentiality of the reports ~~under-section-22-7~~.

29 Sec. 66. Section 716.6B, subsection 1, paragraph a, Code
30 2007, is amended to read as follows:

31 a. An aggravated misdemeanor if computer data is accessed
32 that contains ~~a-confidential~~ an optional public record, as
33 defined in section 22.7, operational or support data of a
34 public utility, as defined in section 476.1, operational or
35 support data of a rural water district incorporated pursuant

1 to chapter 357A or 504, operational or support data of a
2 municipal utility organized pursuant to chapter 388 or 389,
3 operational or support data of a public airport, or a trade
4 secret, as defined in section 550.2.

5 Sec. 67. Section 907.4, Code 2007, is amended to read as
6 follows:

7 907.4 DEFERRED JUDGMENT DOCKET.

8 A deferment of judgment under section 907.3 shall be
9 entered promptly by the clerk of the district court, or the
10 clerk's designee, into the deferred judgment database of the
11 state, which shall serve as the deferred judgment docket. The
12 docket shall contain a permanent record of the deferred
13 judgment including the name and date of birth of the
14 defendant, the district court docket number, the nature of the
15 offense, and the date of the deferred judgment. Before
16 granting deferred judgment in any case, the court shall search
17 the deferred judgment docket and shall consider any prior
18 record of a deferred judgment against the defendant. The
19 permanent record provided for in this section is a
20 ~~confidential~~ an optional public record exempted from public
21 access under section 22.7 and shall be available only to
22 justices of the supreme court, judges of the court of appeals,
23 district judges, district associate judges, judicial
24 magistrates, clerks of the district court, judicial district
25 departments of correctional services, county attorneys, and
26 the department of corrections requesting information pursuant
27 to this section, or the designee of a justice, judge,
28 magistrate, clerk, judicial district department of
29 correctional services, or county attorney, or department.

30 Sec. 68. Section 915.90, unnumbered paragraph 1, Code
31 2007, is amended to read as follows:

32 A person in possession or control of investigative or other
33 information pertaining to an alleged crime or a victim filing
34 for compensation shall allow the inspection and reproduction
35 of the information by the department upon the request of the

1 department, to be used only in the administration and
2 enforcement of the crime victim compensation program.
3 Information and records which are ~~confidential~~ optional public
4 records under section 22.7 and information or records received
5 from ~~the-confidential~~ such information or records remain
6 confidential under this section.

7 Sec. 69. Section 22.6, Code 2007, is repealed.

8 Sec. 70. EFFECTIVE DATE. This Act takes effect July 1,
9 2009.

10 EXPLANATION

11 This bill relates to Iowa's Open Meetings Law (Code chapter
12 21) and Iowa's Open Records Law (Code chapter 22).

13 DEFINITION OF MEETING. The bill expands the definition of
14 "meeting" to include the calculated use of a series of
15 communications, each between less than a majority of the
16 members of a governmental body or their personal
17 intermediaries that is intended to reach and does in fact
18 reach a majority of the members and that is intended to
19 discuss and develop a collective final decision of a majority
20 outside of a meeting with respect to specific action to be
21 taken by the majority at a meeting. The bill specifies that a
22 "meeting" does not include written electronic communications
23 by one or more members of a governmental body or by its chief
24 executive officer that are ordinarily preserved and are
25 accessible and that are sent to a majority of the members of
26 the governmental body, or a series of such written electronic
27 communications each sent only to a minority of the members of
28 the governmental body but that in the aggregate are sent to a
29 majority of the members, that both concern a particular matter
30 within the scope of the governmental body's policymaking
31 duties and would otherwise constitute a meeting, if the
32 written electronic communications, to the extent such
33 communications are not exempt from disclosure, are either
34 posted on the governmental body's internet site or public
35 bulletin board or copies are made available for public

1 inspection at the governmental body's next meeting.

2 RECONVENED MEETINGS. The bill provides that except as
3 otherwise provided, a reconvened meeting of a governmental
4 body is also subject to the meeting notice requirements
5 pursuant to Code section 21.4. This requirement does not
6 apply to a meeting of a governmental body that is reconvened
7 within four hours of the start of its recess, where an
8 announcement of the time, date, and place of the reconvened
9 meeting is made at the original meeting in open session and
10 recorded in the minutes of the meeting and there is no change
11 in the agenda. The notice requirement also does not apply to
12 a meeting held by a formally constituted subunit of a parent
13 governmental body during a lawful meeting of the parent
14 governmental body or during a recess in that meeting of up to
15 four hours, or a meeting of that subunit immediately following
16 the meeting of the parent governmental body, if the meeting of
17 the subunit is publicly announced in open session at the
18 parent meeting and the subject of the meeting reasonably
19 coincides with the subjects discussed or acted upon by the
20 parent governmental body.

21 CIVIL AND CRIMINAL PENALTY PROVISIONS. The bill increases
22 the civil penalty damage amounts for violations of the open
23 meetings and public records laws for each member of the
24 governmental body or each person who participated in the
25 violation from not less than \$100 and not more than \$500 to
26 not less than \$1,000 and not more than \$2,500 subject to the
27 existing defenses contained in Code sections 21.6 and 22.10.

28 The bill repeals the criminal penalty provision for knowing
29 violations or attempts to violate any provisions of the public
30 records law.

31 RECORDS DEFINITIONS. The bill amends the terms used to
32 identify records and different classes of records under the
33 public records law.

34 The bill defines a "record" under Code chapter 22 to mean
35 information of every kind, nature, and form preserved or

1 stored in any medium including but not limited to paper,
2 electronic media, or film media. The bill also designates the
3 following categories of records in Code chapter 22:

4 1. "Government record" means a record owned by, created
5 by, in the possession of, or under the control of, any unit,
6 division, or part of state or local government or the
7 officials or employees of such bodies in the course of the
8 performance of their respective duties.

9 2. "Public record" means a government record which a
10 member of the public has an unqualified right to examine and
11 copy and includes a government record not designated by
12 statute as either a confidential record or an optional public
13 record.

14 3. "Confidential record" means a government record
15 designated by statute as unavailable for examination and
16 copying by a member of the public.

17 4. "Optional public record" means a government record
18 designated by statute as unavailable for examination and
19 copying by a member of the public unless otherwise ordered by
20 a court, by the lawful custodian of the records, or by another
21 person duly authorized to release such information.

22 The bill makes conforming changes throughout the Code based
23 upon the new identification terms for various classes of
24 records established in the bill for Code chapter 22. The
25 conforming terminology changes provide for a continuation of
26 the current public disclosure status of records. Additional
27 conforming changes to these and other Code provisions may be
28 necessary to fully implement the new identification terms for
29 various classes of records established by the bill.

30 RECORDS ACCESS -- GOVERNMENT BODY CONTRACTS WITH
31 NONGOVERNMENT BODY. Current law provides that a government
32 body may not avoid application of the public records law by
33 contracting out any of its functions to a nongovernment person
34 or entity. The bill provides that a record created by, in the
35 possession of, or under the control of, any nongovernment body

1 or person which is a direct part of the execution or
2 performance of duties imposed upon the nongovernment body or
3 person by contract with a government body under which the
4 nongovernment body or person performs a function of the
5 government body is a government record. The lawful custodian
6 of such a government record is the government body with whom
7 the nongovernment body or person has executed the contract.
8 Consistent with this change, the bill makes a conforming
9 amendment relating to records involving charitable donations
10 and specifies that, unless otherwise provided, the lawful
11 custodian of all records relating to the receipt, holding, and
12 disbursement of gifts made for the benefit of regents
13 institutions and made through foundations established for the
14 support of regents institutions is the regents institution to
15 be benefited by such gifts.

16 RECORDS REQUESTS -- TIME LIMITS. The bill provides that
17 upon receipt of an oral or written request to examine or copy
18 a public record, the lawful custodian shall, if feasible in
19 the ordinary course of business, permit such examination or
20 copying at the time of the request. If it is not feasible in
21 the ordinary course of business to permit examination or
22 copying of the public record at the time of the request, the
23 lawful custodian shall immediately notify the requester,
24 orally or in writing, when such examination or copying may
25 take place which shall be no later than five business days
26 from the time of the request unless there is good cause for
27 further delay. If further delay is necessary because of good
28 cause, the lawful custodian shall provide the requester with a
29 written statement detailing the reason or reasons for the
30 delay and the date by which the request will be satisfied. If
31 the lawful custodian is in doubt as to whether the record
32 requested is a public record or whether the requester should
33 be permitted to examine or copy a record specified in Code
34 section 22.7, the lawful custodian shall make that
35 determination within 10 business days from the date of the

1 request. Examination or copying of the record must be allowed
2 within five business days from the date the lawful custodian
3 makes the decision to permit examination or copying of the
4 record. If the lawful custodian denies a request to examine
5 or copy a record, the custodian must provide the requester at
6 the time of the denial a written statement denying the request
7 and detailing the specific reason or reasons for the denial.
8 If the lawful custodian does not fulfill a request to examine
9 or copy a public record within the time frames prescribed, the
10 request shall be deemed denied and the requester shall be
11 entitled to file a complaint with the Iowa public information
12 board created in Code section 23.7 or may file a lawsuit
13 against the lawful custodian pursuant to Code section 22.10.

14 PERSONAL INFORMATION IN CONFIDENTIAL PERSONNEL RECORDS.
15 Current law provides that personal information in confidential
16 personnel records of government bodies shall be confidential,
17 unless otherwise ordered by a court, by the lawful custodian,
18 or by another duly authorized person to release such
19 information. The bill specifies that the name and
20 compensation of the individual, the date the individual was
21 employed by the government body, the positions the individual
22 holds or has held with the government body, the individual's
23 qualifications for the position that the individual holds or
24 has held including but not limited to educational background
25 and work experience, and any final disciplinary action taken
26 against the individual that resulted in the individual's
27 discharge, suspension, demotion, or loss of pay shall be
28 public records.

29 LIBRARY RECORDS. Current law provides that library records
30 which, by themselves or when examined with other public
31 records, would reveal the identity of the library patron
32 checking out or requesting an item or information from the
33 library are confidential unless otherwise ordered by a court,
34 by the lawful custodian, or by another duly authorized person
35 to release such information and the records shall be released

1 to a criminal or juvenile justice agency only pursuant to an
2 investigation of a particular person or organization suspected
3 of committing a known crime. The bill provides that this
4 provision shall not be construed to prohibit a library from
5 disclosing to an identified parent or guardian information
6 regarding the items borrowed or requested by an identified
7 library patron who is the minor child of the parent or
8 guardian.

9 ADDITIONAL OPTIONAL PUBLIC RECORDS DESIGNATIONS. The bill
10 provides that the following records shall be confidential
11 unless otherwise ordered by a court, by the lawful custodian,
12 or by another duly authorized person:

13 1. PUBLIC EMPLOYMENT APPLICATIONS. The identity and
14 qualifications of an applicant for employment by a government
15 body if the applicant requests anonymity in writing and the
16 government body determines that anonymity is necessary to
17 induce the applicant to apply for the public employment
18 position shall be confidential. Such information shall be
19 exempt from disclosure until an applicant is considered by the
20 government body to be a finalist for a position in public
21 employment. "Finalist" means a person who is one of five or
22 fewer applicants under final consideration for a public
23 employment position. If there are five or fewer applicants
24 for the particular position, all of the applicants shall be
25 considered finalists. The identities and qualifications of
26 the finalists shall be made available for public inspection at
27 least three business days prior to the final decision.
28 Documents relating to a government body's evaluation of the
29 qualifications and merits of an applicant for employment by a
30 government body are also confidential records unless otherwise
31 released by the appropriate person.

32 2. MATERIAL INVADING PERSONAL PRIVACY. Material about and
33 linked to an identified or identifiable person that, if
34 disclosed to the general public, would constitute an
35 unwarranted or undue invasion of personal privacy or that

1 would present a clear and serious danger of facilitating
2 identity theft or other criminal activity in relation to that
3 person are confidential unless otherwise ordered by the
4 appropriate official. "Unwarranted or undue invasion of
5 personal privacy" means the public disclosure of particular
6 information about and linked to an identified or identifiable
7 person that is likely to subject such person to potential harm
8 of such person's personal privacy interests or personal
9 security interests that clearly outweighs any potential
10 benefit to the public interest from disclosure of such
11 information. Material about and linked to an identified or
12 identifiable person excluded from public inspection by the
13 bill includes but is not limited to social security numbers,
14 driver's license numbers, credit card and bank account
15 numbers, and personal financial data other than the salary of
16 a public official or a public employee and any financial
17 statements required to be filed by a public official or public
18 employee to avoid a conflict of interest. Material exempted
19 from public disclosure does not include information about and
20 linked to an identified or identifiable person released by the
21 lawful custodian with the person's written consent or
22 information relating to the performance of duties by a public
23 official or public employee.

24 3. TENTATIVE, PRELIMINARY, OR DRAFT MATERIALS. Tentative,
25 preliminary, draft, speculative, or research material, created
26 prior to its final completion for the purpose for which it is
27 intended and in a form prior to the form in which it is
28 submitted for use in the final formulation, recommendation,
29 adoption, or execution of any official policy or action by a
30 public official authorized to make such decisions for the
31 government body, are confidential unless ordered otherwise by
32 the appropriate official. Such materials shall be treated as
33 public record at the time they are actually used as the basis
34 for the final formulation, recommendation, adoption, or
35 execution of any official policy or action of a government

1 body.

2 4. CLOSED SESSION RECORDS. Records containing information
3 that would permit a governmental body subject to Code chapter
4 21 to hold a closed session pursuant to Code section 21.5 in
5 order to avoid public disclosure of that information.

6 INJUNCTION RESTRAINING EXAMINATION OF PUBLIC RECORDS.

7 Current law provides that, under specified circumstances, a
8 district court may grant an injunction restraining the
9 examination, including copying, of a specific public record or
10 a narrowly drawn class of public records. Such an injunction
11 may be issued only if the petition supported by affidavit
12 shows and if the court finds that the examination would
13 clearly not be in the public interest and that the examination
14 would substantially and irreparably injure any person or
15 persons. The bill amends this provision to provide that the
16 district court may grant an injunction upon a finding that the
17 examination would clearly not be in the public interest
18 because the potential harm to the public interest from
19 disclosure of the particular information involved clearly
20 outweighs any potential benefit to the public interest from
21 disclosure, or that the examination would substantially and
22 irreparably injure any person or persons because it would
23 invade the personal privacy of the identified subject of the
24 record and the harm to that person from such disclosure is not
25 outweighed by the public interest in its disclosure, or that
26 the record at issue is not a public record or that a
27 determination by the custodian to permit inspection of an
28 optional public record by one or more members of the public is
29 a violation of law or is arbitrary, capricious, unreasonable,
30 or an abuse of discretion.

31 SETTLEMENT AGREEMENTS. Code chapter 22 currently provides
32 that a written summary of the terms of settlement or other
33 disposition of any claim for damages made against any
34 government body or against an employee, officer, or agent of a
35 government body, by an insurer pursuant to a contract of

1 liability insurance issued to the governmental body, shall be
2 filed with the governmental body and shall be a public record.
3 The bill provides that all final binding settlement agreements
4 between any agency of this state or other unit or official of
5 such a government body that resolves a legal dispute between
6 such a government body and another person or entity shall
7 include a brief summary indicating the identity of the parties
8 involved, the nature of the dispute, any underlying relevant
9 facts that are agreed to by the parties and that are disputed
10 by the parties, and the terms of the settlement, and shall be
11 filed with the government body and shall be available for
12 public inspection.

13 IOWA PUBLIC INFORMATION BOARD. The bill creates the Iowa
14 public information board to provide an alternative means by
15 which to secure compliance with and enforcement of the
16 requirements of Code chapters 21 and 22, to consist of five
17 members appointed by the governor, subject to confirmation by
18 the senate, to serve four-year staggered terms. The board
19 shall be balanced as to political affiliation and gender.
20 Vacancies on the board shall be filled by the governor by
21 appointment for the unexpired part of the term of the vacancy.
22 Any board member may be removed from office by the governor
23 for good cause. The board shall select one of its members to
24 serve as chair and shall hire a director who shall serve as
25 the executive officer of the board. Board members shall be
26 paid a per diem and shall be reimbursed for actual and
27 necessary expenses incurred while on official board business.
28 All per diem and expense moneys paid to board members shall be
29 paid from funds appropriated to the board. The board shall
30 not have jurisdiction over the judicial or legislative
31 branches of state government or any agency, officer, or
32 employee of those branches, or over the governor or the office
33 of the governor, but the bill does not alter the current
34 applicability of Code chapter 22 and the enforcement
35 mechanisms provided in Code chapter 22 to any of those bodies.

1 The bill provides that any aggrieved person, any taxpayer
2 to or citizen of the state of Iowa, the attorney general, or
3 any county attorney, may seek enforcement of the requirements
4 of Code chapters 21 and 22 by electing either to file an
5 action pursuant to Code section 17A.19, 21.6, or 22.9,
6 whichever is applicable, or in the alternative, to file a
7 timely complaint with the board. If more than one person
8 seeks enforcement of Code chapter 21 or 22 with respect to the
9 same incident involving an alleged violation, and one or more
10 of such persons elects to do so by filing an action under Code
11 section 17A.19, 21.6, or 22.9, and one or more of such persons
12 elects to do so by filing a timely complaint with the board,
13 the court in which the action was filed shall dismiss the
14 action without prejudice authorizing the complainant to file a
15 complaint with respect to that same incident with the board
16 without regard to the timeliness of the filing of that
17 complaint at the time the action in court is dismissed. If a
18 government body files an action seeking to enjoin the
19 inspection of a public record, the respondent may remove the
20 proceeding to the board for its determination by filing,
21 within 30 days of the commencement of that judicial
22 proceeding, a complaint with the board alleging a violation of
23 Code chapter 22 in regard to the same matter.

24 The bill provides that the board shall have the authority
25 to employ such employees as are necessary to execute its
26 authority, adopt rules with the force of law, interpret the
27 requirements of Code chapters 21 and 22, implement any
28 authority delegated to the board, issue declaratory orders
29 with the force of law, receive complaints alleging violations
30 of Code chapter 21 or 22, seek resolution of such complaints
31 through mediation and settlement, formally investigate such
32 complaints, decide after such an investigation whether there
33 is probable cause to believe a violation of Code chapter 21 or
34 22 has occurred, and if probable cause has been found,
35 prosecute the respondent before the board in a contested case

1 proceeding conducted according to the provisions of Code
2 chapter 17A. The board shall also have the authority to issue
3 subpoenas enforceable in court, issue orders with the force of
4 law, represent itself in judicial proceedings, make training
5 opportunities available, disseminate information to inform the
6 public about the public's right to access government
7 information, prepare and transmit reports to the governor and
8 the general assembly, at least annually, describing complaints
9 received, board proceedings, investigations, hearings
10 conducted, decisions rendered, and other work performed by the
11 board, and make recommendations to the general assembly
12 concerning legislation relating to public information access.

13 The bill provides that a complaint must be filed within 60
14 days from the time the alleged violation occurred or the
15 complainant could have become aware of the violation with
16 reasonable diligence. The board shall not charge a
17 complainant any fee in relation to the filing of a complaint,
18 the processing of a complaint, or any board proceeding or
19 judicial proceeding resulting from the filing of a complaint.

20 The bill provides that upon receipt of a complaint, the
21 board shall either make a determination that, on its face, the
22 complaint is within the board's jurisdiction, appears legally
23 sufficient, and could have merit, in which case the board
24 shall accept the complaint, or make a determination that, on
25 its face, the complaint is outside the board's jurisdiction,
26 is legally insufficient, is without merit, or relates to a
27 specific incident that has previously been finally disposed of
28 on its merits by the board or a court, in which case the board
29 shall decline to accept the complaint. If the board declines
30 to accept the complaint, the board shall provide the
31 complainant with a written statement detailing the reasons for
32 the denial.

33 After accepting a complaint, the board shall offer the
34 parties the opportunity to resolve the dispute through
35 mediation and settlement which shall provide the complainant

1 the opportunity to resolve the dispute with the aid of a
2 neutral mediator employed and selected by the board.
3 If any party declines mediation or settlement or if
4 mediation or settlement fails to resolve the matter to the
5 satisfaction of all parties, the board shall initiate a formal
6 investigation concerning the facts and circumstances set forth
7 in the complaint. After investigation, the board shall make a
8 determination as to whether the complaint is within the
9 board's jurisdiction and whether there is probable cause to
10 believe that the complaint states a violation of Code chapter
11 21 or 22 and if the board finds the complaint is outside the
12 board's jurisdiction or there is not probable cause to believe
13 there has been a violation, the board shall issue a written
14 order explaining the reasons for the board's conclusions and
15 dismissing the complaint. If the board finds the complaint is
16 within the board's jurisdiction and there is probable cause to
17 believe there has been a violation, the board shall issue a
18 written order to that effect and shall commence a contested
19 case proceeding against the respondent. An attorney selected
20 by the director of the board shall prosecute the respondent in
21 the contested case proceeding. At the termination of the
22 contested case proceeding the board shall, by a majority vote
23 of its members, render a final decision as to the merits of
24 the complaint and issue any appropriate order to ensure
25 enforcement of Code chapter 21 or 22 or to remedy any failure
26 of the respondent to observe any provision of those Code
27 chapters. If the board determines, by a majority vote of its
28 members, that the respondent has violated Code chapter 21 or
29 22, the board may also require the respondent to pay damages
30 if such damages would be warranted under either Code chapter
31 and may void any action taken in violation of Code chapter 21.
32 The board does not have the authority to remove a person from
33 public office for a violation of Code chapter 21 or 22 but may
34 file an action under either Code chapter to remove a person
35 from office for violations that would subject a person to

1 removal under those Code chapters. A final board order
2 resulting from such proceedings may be enforced by the board
3 in court and is subject to judicial review pursuant to Code
4 section 17A.19.

5 A respondent may defend against a proceeding before the
6 board charging a violation of Code chapter 21 or 22 on the
7 ground that if such a violation occurred it was only harmless
8 error or that clear and convincing evidence demonstrated that
9 grounds existed to justify a court to issue an injunction
10 against disclosure.

11 COURT RULES. The bill provides that the Iowa supreme court
12 may issue rules requiring confidentiality of certain
13 categories of material in records maintained by the courts
14 that are about and linked to an identified or identifiable
15 person and that if disclosed to the general public would
16 constitute an unwarranted or undue invasion of personal
17 privacy or that would present a clear and serious danger of
18 facilitating identity theft or other criminal activity in
19 relation to that person.

20 EFFECTIVE DATE. The bill takes effect July 1, 2009.

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